

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA, §
§
Plaintiff, §
v. §
§
DEVIN KEITH STEPHEN, §
§
Defendant. §

CRIMINAL ACTION NO. 4:08-CR-143

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Now before the Court is the request for revocation of Defendant's supervised release. After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted a hearing on November 16, 2020, to determine whether Defendant violated his supervised release. Defendant was represented by Frank Henderson. The Government was represented by Glen Jackson.

Devin Keith Stephen was sentenced on February 17, 2009, before the Honorable Marcia A. Crone of the Eastern District of Texas after pleading guilty to the offense of Felon in Possession of a Firearm, a Class C felony. This offense carried a statutory maximum imprisonment term of 10 years. The guideline imprisonment range, based on a total offense level of 25 and a criminal history category of IV, was 84 to 105 months. Devin Keith Stephen was subsequently sentenced to 105 months imprisonment ordered to run concurrently with any sentence imposed in Case Nos. F2008-1961-B and F2008-1960-B in the 158th Judicial District Court of Denton County, Texas. Said term of imprisonment was followed by 3 years of supervised release subject to the standard conditions of release, plus special conditions to include financial disclosure, substance abuse treatment and testing, and a \$100 special assessment fee. On March 29, 2012, an Amended

Judgement was entered due to the defendant receiving a reduction in sentence due to substantial assistance and the imprisonment term was reduced to 53 months. On December 21, 2012, Devin Keith Stephen completed his federal period of imprisonment and continued in the custody of the Texas Department of Criminal Justice to finish serving his concurrent state sentence. He was released from all terms of imprisonment on November 9, 2017 and began service of his supervision term. On October 3, 2019, this case was reassigned to the Honorable Sean D. Jordan, U.S. District Judge for the Eastern District of Texas.

On October 2, 2019, the U.S. Probation Officer executed a Petition for Warrant or Summons for Offender Under Supervision [Dkt. 129, Sealed]. The Petition asserts that Defendant violated three (3) conditions of supervision, as follows: (1) the defendant shall not commit another federal, state, or local crime; (2) the defendant shall not unlawfully possess a controlled substance; and (3) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by physician.

The Petition alleges that Defendant committed the following acts: (1) on July 22, 2019, the defendant was indicted by the Dallas County Grand Jury for the offense of Indecency with a Child Sexual Contact in case number F-1900433. The next court date is scheduled for September 11, 2019, in the 292nd District Court of Dallas County; (2) on April 11, 2018, the defendant submitted a urine specimen at the probation office in Plano, Texas, that tested positive for marijuana and benzodiazepines. The specimen was confirmed positive for benzodiazepines by Alere Laboratories, Inc.; and (3) On April 19, 2018, the defendant submitted a urine specimen at the probation office in Plano, Texas, that tested positive for marijuana and benzodiazepines. The defendant admitted to using marijuana and benzodiazepines. The specimen was confirmed positive

for benzodiazepines and marijuana by Alere Laboratories, Inc. On February 23, 2019, the defendant submitted a urine specimen in his home in Garland, Texas, that tested positive for marijuana. The defendant gave a written admission to using marijuana. On March 4, 2019, the defendant submitted a urine specimen at the probation office in Plano, Texas, that tested positive for marijuana. The specimen was sent to Alere Laboratories, Inc., for confirmation; however, the specimen could not be tested due to excessive leakage during shipment.

Prior to the Government putting on its case, Defendant entered a plea of true to allegations 2 and 3 of the Petition. The Government dismissed the remaining allegation. Having considered the Petition and the plea of true to allegations 2 and 3, the Court finds that Defendant did violate his conditions of supervised release.

Defendant waived his right to allocute before the District Judge and his right to object to the report and recommendation of this Court.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984, the Court recommends that Defendant's supervised release be revoked and that he be committed to the custody of the Bureau of Prisons to be imprisoned for a term of twelve (12) months of imprisonment, with no term of supervised release to follow.

SIGNED this 2nd day of December, 2020.



Christine A. Nowak
UNITED STATES MAGISTRATE JUDGE